

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Numbers EB-02-KC-441 & EB-02-KC-448
)	
US Cable Of Coastal Texas LP)	NAL/Acct. No.2002322560016
Owner of Two Unregistered Antenna Structures)	
Located At or Near 32° 28' 53" North Latitude by)	FRN 0004-4539-81
092° 00' 26" West Longitude Near Paris, Missouri,)	
and At or Near 39° 40' 22" North Latitude by 091° 21')	
23" West Longitude Approximately 3 Miles South of		
Hannibal, Missouri		

Montvale, New Jersey

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: July 16, 2002

By the Enforcement Bureau, Kansas City Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL"), we find US Cable of Coastal Texas LP ("US Cable"), apparently liable for a forfeiture in the amount of six thousand dollars (\$6,000) for willful and repeated violation of Section 17.4(a) of the Commission's Rules ("Rules").¹ Specifically, we find US Cable of Coastal Texas LP failed to register two of its antenna supporting structures in two different locations.

II. BACKGROUND

2. US Cable owns two antenna supporting structures, the first located at or near geographical coordinates 32° 28' 53" N latitude & 092° 00' 26" W longitude near Paris, Missouri, and the second located at 39° 40' 22" N latitude & 091° 21' 23" W longitude approximately 3 miles south of Hannibal, Missouri.

3. On June 4, 2002, an agent of the Commission's Kansas City Office inspected the US Cable antenna structure located at 32° 28' 53" N latitude & 092° 00' 26" W longitude near Paris, Missouri. The agent observed no Antenna Structure Registration ("ASR") numbers posted to identify this structure. The FCC ASR database had no record that this antenna structure had been registered.

4. On June 5, 2002, an agent of the Commission's Kansas City Office inspected the second US Cable antenna structure located at 39° 40' 22" N latitude & 091° 21' 23" W longitude approximately 3 miles south of Hannibal, Missouri. The agent observed no ASR numbers posted to identify this structure. The FCC ASR database had no record that this antenna structure had been registered.

¹ 47 C.F.R. § 17.4(a).

III. DISCUSSION

5. Section 17.4(a) of the Rules provides that the owner of antenna structures that require notice to the Federal Aviation Administration (“FAA”) must register structures with the Commission. US Cable’s two antenna structures required notice to the FAA, and thus required registration with the Commission, because they both exceeded 200 feet in height.² US Cable failed to register its antenna structure near Paris, Missouri as of June 4, 2002, and failed to register its antenna structure near Hannibal, Missouri as of June 5, 2002.

6. Based on the evidence before us, we find that on June 4 and June 5, 2002, US Cable willfully³ and repeatedly⁴ violated Section 17.4(a) of the Rules by failing to register two of its antenna structures.

7. Pursuant to Section 1.80(b)(4) of the Rules,⁵ the base forfeiture amount for failure to register an antenna structure is \$3,000 for each violation. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ Because US Cable failed to register two different towers, this constitutes separate violations and it is appropriate to impose a forfeiture for each. Considering the entire record and applying the factors listed above, this case warrants a \$6,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁷ and Sections 0.111, 0.311 and 1.80 of the Rules,⁸ US Cable is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of six thousand dollars (\$6,000) for willful and repeated violation of Section 17.4(a) of the Rules by failing to register its two antenna structures.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, US Cable SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

² See 47 C.F.R. § 17.7(a).

³ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁴ The term “repeated,” when used with reference to the commission or omission of any act, “means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

⁵ 47 C.F.R. § 1.80(b)(4).

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. §§ 0.111, 0.311, 1.80.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁹

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to US Cable of Coastal Texas LP, 28 West Grand Avenue, Montvale, NJ 07645.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney
District Director
Kansas City Office
Enforcement Bureau

⁹ See 47 C.F.R. § 1.1914.